

Serial No.: 10/092,162

Docket No.: GOW 0091 PA/40329.111

Remarks

By this response, new claim 13 has been added. Claims 1-13 are pending in this application. No new matter has been entered.

Objection of the Abstract

The Examiner objected to the Abstract because the word "said" is included in the Abstract. Accordingly, Applicants have amended the Abstract to remove the word "said". No new matter has been added.

Rejections under 35 U.S.C. §102

The Examiner rejected claims 1-12 under 35 U.S.C. §102(e) as being anticipated by Levitt (U.S. publication US2002/0151327). The Examiner stated that Levitt teaches all the elements of Applicants' claimed invention. Applicant respectfully requests reconsideration of the rejection based upon the reasons set forth below.

Applicants submit that the present application claims priority to provisional application No. 60/273,542 filed on March 7, 2001, which antedates the filing date of Levitt's filing date of December 20, 2001. However, Levitt claims priority to a provisional application No. 60/258,115 filed on December 22, 2001. Applicants submit that if the Examiner wishes to rely on this provisional application filing date, then reference must be made to portions of the provisional application No. 60/285,115, and not to the later filed non-provisional application No. 10/027,112. Since this has not been done, Applicants respectfully request the rejection under §102(e) be withdrawn.

Notwithstanding the arguments set forth above, enclosed with this response is a declaration under 37 CFR 1.131 (along with Exhibits A-K), which substantiates that the invention was conceived prior to the December 22, 2000 provisional application filing date of Levitt and that Applicants pursued diligently from this date to the March 7, 2001 constructive reduction to practice of the provisional application. As such, Levitt is not prior art under §102(e), and cannot form the basis of a rejection under §103. Therefore, Applicants respectfully request withdrawal of the above noted rejections to the claims.

As to newly added independent claim 13, Levitt does not teach a portable electronic field guide for bird watching. Levitt teaches a portable electronic device to be used for displaying and

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previewing broadcast, cable, and/or satellite TV listings on such device. Levitt also teaches that this device may be used as a universal remote to control such devices as DVD, CD, TV, and other electronic appliances. Levitt does not teach a device for bird watching and playing multimedia bird files as recited in claim 13. Thus, Applicants submit that claim 13 is in condition for allowance.

The Applicants respectfully submit that, in view of the above remarks and enclosed declaration, the application is now in condition for allowance. The Examiner is encouraged to contact the undersigned to resolve efficiently any formal matters or to discuss any aspects of the application or of this response. Otherwise, early notification of allowable subject matter is respectfully solicited.

Respectfully submitted,

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